

REMARKS

Claims 12-19, 22-29, 31 and 40 are currently pending and under rejection. Herein, claims 12, 24 and 31 have been amended to further clarify the invention. No new matter has been added by way of these amendments. Claims 17, 18, 22, 23, 25, and 40 have been cancelled.

Status Identifiers

Applicants apologize for the confusing status identifiers and errant strikethrough. Applicants have remedied these deficiencies in the claim set contained herein.

Claim Rejection – 35 USC § 112, *Written Description*

Claims 12-19, 23-29, 31 and 40 have been rejected for failing to comply with the written description requirement for the inclusion of new matter in the previously entered amendments. The limitations that are the subject of this rejection have been removed, and thus render this rejection moot.

Claim Rejection – 35 USC § 112, *Indefinite*

Claim 18 has been rejected as indefinite. Claim 18 is cancelled herein, thus rendering this rejection moot.

Claim Rejection – 35 USC § 102(b), *Anticipated*

The Examiner lists claims 23-29 and 40 as rejected under 35 USC 102(b) as anticipated by Tulsieram et al. While the Examiner listed only these claims, in the discussion of this rejection, the Examiner also addressed the majority of the remaining claims and Applicants assume the Examiner intended to include all claims in this rejection, with the exception of claims 19 and 22.

The Examiner asserts that Tulsieram teaches all of the limitations of the instant independent claims. Applicants note on page 5, that the Examiner has pointed out as the taught limitation “at least one marker of bin 2, but none of the markers of bin 3” and points to Tulsieram as teaching “AFLP Markers included E33/M47 of bin 2, but not any bin 3 markers.” Applicants respectfully traverse this rejection and believe that the Examiner has mischaracterized what Tulsieram teaches.

The present invention relates to a specific novel and inventive recombination event (non-transgenic genetic modification) of the Rf restorer gene region from radish (*Raphanus sativus* L.; Rf) in rapeseed *Brassica* spec. In the PCT IPRP correctly stated, the invention relies on the breakage of the linkage between the Rf restorer gene and the genes responsible for high GSL content, both lying on the same introgressed radish chromosomal fragment. The specific recombination event is called BRL1.

Specific reference is made to Table 4 of the present application. The present invention is represented by the analysis of the *Brassica* inbred line BLR-038, (shown in the column denominated “BLR-038”). This table shows a characterization of *Brassica* inbred line BLR-038 by means of AFLP marker analysis as described in Example 2 of the present application (see summary on page 24 of the present application), with the markers disclosed in the present application, as well as state of the art *Brassica* inbred lines (Lutin, P209001, P97838, P97839, P209002).

As can be clearly identified in Table 4, the example line BLR-038 comprises a recombination event of intermediate size, i.e. not comprising the long chromosomal region identified by the markers of bin 3 (and bin 4), but comprising the chromosomal region identified by the markers of bin 1 and bin 2. Such recombination event (BRL1) has not been disclosed or suggested in the state of the art. It is clear from Table 5 in Tulsieram that all lines tested included the OPN20 marker. The amended claims of the instant application make it clear that OPN20 **is not** found in a *Brassica* plant of the invention. The crux of Applicants invention is that a line of the present invention contains bin 2 markers but **not** bin 3 markers. All of the lines for which data is provided in Tulsieram contain OPN20, a bin 3 marker and thus do not anticipate the claimed invention. Accordingly, the claimed subject-matter is novel and Applicants request that this rejection be withdrawn.

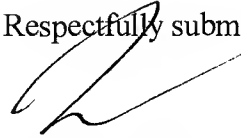
Claim Rejections – 35 USC 103(a), *Obviousness*

The Examiner has rejected claims 19 and 22 as being obvious over Tulsieram in view of Tulsieram and further in view of Lowe. Applicants submit that the foregoing arguments relative to novelty are relevant here and as these claims further limit claim 12 in the case of claim 19, that claim 19 is therefore not obvious. Claim 22 has been cancelled and thus rejection is moot as to that claim.

CONCLUSION

Applicants believe all defects have been remedied herein and request allowance of the pending claims. If any additional matters remain, the Examiner is invited to call the undersigned attorney at the provided number.

Respectfully submitted,



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